

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

CHRISTOPHER MCALLISTER,

Defendant-Appellee.

UNPUBLISHED
September 15, 2011

No. 299126
Wayne Circuit Court
LC No. 10-003527-FH

Before: SAWYER, P.J., and DONOFRIO and RONAYNE KRAUSE, JJ.

MEMORANDUM.

Defendant was charged with failing to comply with the reporting requirements of MCL 28.725(1)¹ of the Sex Offenders Registration Act (SORA), MCL 28.721 *et seq.* Following an evidentiary hearing, the trial court found that defendant was homeless and, relying on this Court's decision in *People v Dowdy*, 287 Mich App 278; 787 NW2d 131 (2010) (*Dowdy I*), rev'd 489 Mich 373 (2011), concluded that he was not required to comply with the statute's reporting requirements. Accordingly, the court dismissed the charge. The prosecutor appeals as of right. Our role as an intermediate appellate court is limited, and "[w]here the Supreme Court has spoken, as here, we are not free to disregard its precedent." *Tait v Ross*, 37 Mich App 205, 207; 194 NW2d 554 (1971). We reverse and remand.

Although the trial court's ruling was consistent with this Court's decision in *Dowdy I*, the Supreme Court recently reversed *Dowdy I* and held that:

All sex offenders can, and therefore must, comply with the reporting obligations and notification requirements outlined in the statute. An offender's homelessness in no way prevents that offender from physically entering a law enforcement agency and truthfully reporting to the authorities information regarding the offender's residence or domicile. [*People v Dowdy*, 489 Mich 373, ____; ____ NW2d ____ (Docket No. 140603, decided July 11, 2011), slip op at 19.]

¹ The statute was amended by 2011 PA 17, effective July 1, 2011. The amended statute does not apply to the charge in this case, which arose before the statute was amended.

The Supreme Court held that even a homeless person can have a residence as defined by former MCL 28.722(g).² According to the Court, nothing in the plain language of SORA suggests that a “residence” is “synonymous with a home, a specific street address, or even a physical structure.” *Id.*, slip op at 10. Consequently, when a homeless person does not have a residence, he has a domicile because “[e]very person has a domicile somewhere.” *Id.*, slip op at 11. Therefore, when a person vacates his registered address and becomes homeless, he is “nevertheless obligated to notify the authorities that his residence or domicile ha[s] changed.” *Id.*, slip op at 17. We are constricted to follow Supreme Court precedent on this issue, *People v Tierney*, 266 Mich App 687, 713; 703 NW2d 204 (2005), and therefore, we reverse and remand. The trial court erred in granting defendant’s motion to dismiss.

Reversed and remanded for proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ David H. Sawyer
/s/ Pat M. Donofrio
/s/ Amy Ronayne Krause

² The definition of the term “residence” now appears at MCL 28.722(p), as amended by 2011 PA 17.